



DEPARTMENT OF VETERANS AFFAIRS
Washington DC 20420

February 4, 2019

FOIA Request: 18-03793-F

Jasper Craven
Muckrock News
DEPT MR 46864
411 A Highland Avenue
Somerville, MA 02144-2516
VIA EMAIL: 56930-32750762@requests.muckrock.com

Dear Mr. Craven:

This letter serves as the U.S. Department of Veterans Affairs (VA), Office of Accountability and Whistleblower Protection's (OAWP) initial agency decision (IAD) response to your January 17, 2018 request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, wherein you wrote:

"...2017 annual reports the VA is required to produce as part of the statutes of the VA Accountability and Whistleblower Protection Act"

In your FOIA request received January 18, 2018 and assigned tracking number 18-03793-F, you requested the 2017 annual report for the Office of Accountability and Whistleblower Protection. Additionally, you stated the requested documents will be made available to the general public and the request is not being made for commercial purposes.

The FOIA Office has completed a search for the associated document. Attached is the 2017 annual report. The report is 36 pages (no attachments). The attached report was transmitted to the committees as requested, by the act, and soon after was made available through Federal News Network to the general public.

The FOIA, 5 U.S.C. § 552(A)(4)(a)(II), requires all FOIA requesters to be characterized under one of the following categories of FOIA requesters: commercial use requesters; educational institutions, noncommercial scientific institutions, representative of the news media; or all other requesters. Based on the information provided in your letter we have classified you as an "all other" FOIA requester. The FOIA provides that federal agencies may charge fees for the processing of FOIA requests (5 U.S.C. § 552(a)(4)(A)(i) (2006), amended by the OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524). The implementing VA regulations regarding fees for FOIA requests are contained in Title 38 of the Code of Federal Regulations (CFR), Section 1.500-1.562. Pursuant to those regulations, VA will charge for the direct costs of processing requests under the FOIA.

OAWP has concluded its search for records responsive to your FOIA request. OAWP initiated its search for responsive records on December 12, 2018; therefore, records

that OAWP may have created or gathered on this subject after the cut-of-date, January 14, 2019, are not considered to be within the scope of your FOIA request.

Please be advised an agency is not obligated to create a new record to comply with a request. An agency is neither required to collect information it does not have, nor must an agency research or analyze data for a requestor. However, an agency will sometimes help a requester identify a specific document that contains the information being sought. See <https://oversight.house.gov/wp-content/uploads/2012/09/Citizens-Guide-on-Using-FOIA.2012.pdf>

Our search resulted in 36 pages of records responsive to your request (see attached). The search was conducted in the OAWP SharePoint database.

Please be advised that you may appeal the determination made in this response to:

Office of General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420
Email: ogcfoiaappeals@va.gov

If you should choose to file an appeal, please include a copy of this letter with your written appeal and clearly indicate the basis for your disagreement with the determination set forth in this response.

Please be advised that in accordance with VA's implementing FOIA regulations at 38 C.F.R. § 1.559, your appeal must be postmarked no later than ninety (90) days of the date of this letter.

As an alternative to submitting an appeal, you may contact the VA FOIA Public Liaison, which was created to offer mediation services to resolve disputes between FOIA requesters and federal agencies. Using the VA FOIA Public Liaison does not affect your right to appeal.

Department of Veterans Affairs
VA FOIA Public Liaison (005R1C)
810 Vermont Avenue, NW
Washington, DC 20420
Email: VACOFOIAService@va.gov
Phone: (877) 750-3642
Fax: (202) 632-7581

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation.

Using OGIS services does not affect your right to pursue litigation. Under the provisions of the FOIA Improvement Act of 2016, the following contact information is provided to assist FOIA requesters in resolving disputes:

Office of Government Information Services (OGIS)

Email Address: ogis@nara.gov

Fax: 202-741-5769

Mailing address:

National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

If you are dissatisfied with any appeal results, judicial review will thereafter be available to you in the United States District Court of your residence, principal place of business, or the District of Columbia where the records you seek are located.

Your request was processed by the OAWP FOIA Office. Please contact the OAWPFOIAREQUESTS@VA.GOV or the undersigned if you have any questions or concerns.

Sincerely,

Sheila Hickman
Sheila Hickman
OAWP FOIA Officer